

WISCONSIN LEGISLATIVE COUNCIL STAFF

LCRC
FORM 2

JUL 12 REC'D

RULES CLEARINGHOUSE

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CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 99-098

AN ORDER to repeal chapter Med 6 and Med 10.02 (2) (v) and (y), 13.03 (1) (c) and 13.05 (1m); to amend Med 10.02 (2) (za), chapter Med 13 (title) and Med 13.01, 13.02, 13.05 (2), 13.06, 17.02 (2), 19.08 (2) (a), 21.01, 21.02 (2) and 21.03 (1) and (2) (intro.), relating to the repeal of rules relating to the practice of podiatry.

Submitted by **DEPARTMENT OF REGULATION AND LICENSING**

06-14-99 RECEIVED BY LEGISLATIVE COUNCIL.

07-08-99 REPORT SENT TO AGENCY.

RNS:DD:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO

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CLEARINGHOUSE RULE 99-098

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. It is suggested that the second and third sentences of the department's analysis be combined to read as follows: "Therefore, ch. Med 6 and ss. Med 10.02 (2) (v) and (y), 13.03 (1) (c) and 13.05 (1m) are repealed because they relate solely to podiatrists."

It would be helpful if the department's analysis indicated the status of the rules that are intended to replace the repealed and amended rules.

b. It is not clear why reference to "podiatrists" is being removed from s. Med 19.08 (2) (a). Removal of the term from that provision does not appear to be required by 1997 Wisconsin Act 175.

4. Adequacy of References to Related Statutes, Rules and Forms

Three of the references to the affected rules in the department's analysis are incorrect. Two of those references are corrected in the rewrite of the second and third sentences suggested above. In the last sentence of the analysis, reference should be to s. Med 10.02 (2) (za).

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : MEDICAL EXAMINING BOARD
MEDICAL EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 99-)

PROPOSED ORDER

An order of the Medical Examining Board to *repeal* chapter Med 6, Med 10.02 (2) (v) and (y), 13.03 (1) (c) and 13.05 (1m), to *amend* Med 10.02 (2) (za), ch. Med 13 (title), 13.01, 13.02, 13.05 (2), 13.06, 17.02 (2), 19.08 (2) (a), 21.01, 21.02 (2) and 21.03 (1) and (2) (intro.), relating to the repeal of rules relating to the practice of podiatry.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 448.40, Stats.

Statutes interpreted: ss. 448.03 (3) (c), 448.03(4) (title), 448.04 (1) (d), 448.05 (3) and 448.10 (2), Stats.

In this proposed rule-making order the Medical Examining Board is repealing rules relating to podiatrists as a result of 1997 Wisconsin Act 175, which created the Podiatrists Affiliated Credentialing Board. Therefore, Chapter Med 6, in its entirety is repealed. References to podiatrists in ss. Med 10.02 (v) and (y), Med 13.03 (1) (c) and Med 13.05 (1) (m) are also repealed. Sections Med 10.02 (2) (z), Chapter Med 13 (title), Med 13.01, 13.02, 13.05 (2), 13.06, 17.02 (2), 19.08 (2) (a), 21.01, 21.02 (2) and 21.03 (1) and (2) (intro.) are amended to remove references to podiatrists.

TEXT OF RULE

SECTION 1. Chapter Med 6 is repealed. *check*

SECTION 2. Med 10.02 (2) (v) and (y) are repealed.

SECTION 3. Med 10.02 (2) (za) is amended to read:

Med 10.02 (2) (za) Failure by a physician, ~~podiatrist~~ or physician assistant to maintain patient health care records consistent with the requirements of ch. Med 21.

NTJ 105.265 eff.

SECTION 4. Chapter Med 13 (title) is amended to read:

CONTINUING MEDICAL EDUCATION
FOR PHYSICIANS ~~AND PODIATRISTS~~

SECTION 5. Med 13.01 is amended to read:

Med 13.01 **Authority and purpose.** The rules in this chapter are adopted by the medical examining board pursuant to the authority delegated by ss. 15.08 (5) (b), 227.11 (2), and 448.13, Stats., and govern the biennial training requirements for physicians ~~and podiatrists~~ as provided under s. 448.13, Stats.

SECTION 6. Med 13.02 is amended to read:

Med 13.02 (1) Each physician ~~or podiatrist~~ required to complete the biennial training requirements provided under s. 448.13, Stats., shall, in each second year at the time of making application for a certificate of registration as required under s. 448.07, Stats., sign a statement on the application for registration certifying that the physician ~~or podiatrist~~ has completed at least 30 hours of acceptable continuing medical educational programs within the 2 calendar years immediately preceding the calendar year for which application for registration is made. ~~The 30 hours of continuing medical education for podiatrists first applies to applications that are submitted to the department to renew a license to practice podiatry that expires on November 1, 1997.~~

(2) A physician ~~or podiatrist~~ may apply to the board for waiver of the requirements of this chapter on grounds of prolonged illness or disability or other similar circumstances, and each ~~such~~ case will be considered individually on its merits by the board.

SECTION 7. Med 13.03 (1) (c) is repealed.

SECTION 8. Med 13.05 (1m) is repealed.

SECTION 9. Med 13.05 (2) is amended to read:

Med 13.05 (2) **RETENTION REQUIREMENT.** Evidence of compliance shall be retained by each physician ~~or podiatrist~~ through the biennium for which 30 hours of credit are required for registration.

SECTION 10. Med 13.06 is amended to read:

Med 13.06 **Audit.** The board may require any physician ~~or podiatrist~~ to submit his or her evidence of compliance to the board during the biennium for which 30 hours of credit are required for registration to audit compliance.

SECTION 11. Med 17.02 (2) is amended to read:

Med 17.02 (2) "Practitioner" means a person holding a license to practice medicine and surgery ~~or to practice podiatry.~~

SECTION 12. Med 19.08 (2) (a) is amended to read:

Med 19.08 (2) (a) Evaluation and rehabilitative treatment shall be based on a referral from a licensed physician, dentist, psychologist, or chiropractor ~~or podiatrist.~~

why?

SECTION 13. Med 21.01 is amended to read:

Med 21.01 **Authority and purpose.** The rules in this chapter are adopted by the board under the authority of ss. 15.08 (5) (b), 227.11 (2) and 448.40 (1), Stats., to govern the practice of physicians, ~~podiatrists~~ and physician assistants in the preparation and retention of patient health care records.

SECTION 14. Med 21.02 (2) is amended to read:

Med 21.02 (2) "Patient" means a person who receives health care services from a physician, ~~podiatrist~~ or physician assistant.

SECTION 15. Med 21.03 (1) and (2) (intro.) are amended to read:

Med 21.03 (1) A physician, ~~podiatrist~~ or physician assistant shall maintain patient health care records on every patient administered to for a period of not less than 5 years after the date of the last entry, or for such longer period as may be otherwise required by law.

(2) (intro.) A patient health care record prepared by a physician, ~~podiatrist~~ or physician assistant shall contain the following clinical health care information which applies to the patient's medical condition:

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____

Agency _____

Chairperson
Medical Examining Board

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

INITIAL REGULATORY FLEXIBILITY ANALYSIS

These proposed rules will be reviewed by the department through its Small Business Review Advisory Committee to determine whether there will be an economic impact on a substantial number of small businesses, as defined in s. 227.114 (1) (a), Stats.

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6/14/99

AUG 26 1999

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : MEDICAL EXAMINING BOARD
MEDICAL EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 99-098)

TO: Senator Judy Robson, Senate Co-Chairperson
Joint Committee for the Review of Administrative Rules
Room 15 South, State Capitol
Madison, Wisconsin 53702

PLEASE TAKE NOTICE that the MEDICAL EXAMINING BOARD is submitting in final draft form proposed rules relating to the repeal of rules relating to the practice of podiatry.

Please stamp or sign a copy of this letter to acknowledge receipt. If you have any questions concerning the final draft form or desire additional information, please contact Pamela Haack at 266-0495.



State of Wisconsin \ DEPARTMENT OF REGULATION & LICENSING

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Administrative Rules in Final Draft Form

Medical Examining Board

Rule: Chapter Med 6

Relating to: Podiatrists

Clearinghouse Rule: No. 99-098

Regulatory Boards

Accounting; Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors; Professional Geologists, Hydrologists and Soil Scientists; Auctioneer; Barbering and Cosmetology; Chiropractic; Controlled Substances; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Podiatry; Psychology; Real Estate; Real Estate Appraisers; Social Workers, Marriage and Family Therapists and Professional Counselors; and Veterinary.

Committed to Equal Opportunity in Employment and Licensing

**STATE OF WISCONSIN
MEDICAL EXAMINING BOARD**

IN THE MATTER OF RULE-MAKING :
PROCEEDINGS BEFORE THE : **REPORT TO THE LEGISLATURE**
MEDICAL EXAMINING BOARD : **ON CLEARINGHOUSE RULE 99-098**
: **(s. 227.19 (3), Stats.)**

I. THE PROPOSED RULE:

The proposed rule, including the analysis and text, is attached.

II. REFERENCE TO APPLICABLE FORMS:

No new or revised forms are required by these rules.

III. FISCAL ESTIMATES:

These rules will have no significant impact upon state or local units of government.

IV. STATEMENT EXPLAINING NEED:

In this rule-making order the Medical Examining Board is repealing rules relating to podiatrists as a result of 1997 Wisconsin Act 175, which created the Podiatrists Affiliated Credentialing Board. Therefore, ch. Med 6 and ss. Med 10.02 (2) (v) and (y), 13.03 (1) (c) and 13.05 (1m) are repealed because they relate solely to podiatrists. References to podiatrists in ss. Med 10.02 (2) (v) and (y), Med 13.03 (1) (c) and Med 13.05 (1m) are also repealed. Sections Med 10.02 (2) (za), Chapter Med 13 (title), Med 13.01, 13.02, 13.05 (2), 13.06, 17.02 (2), 21.01, 21.02 (2) and 21.03 (1) and (2) (intro.) are amended to remove references to podiatrists.

Clearinghouse Rule 99-038, which created the Podiatrists Affiliated Credentialing Board, was submitted on August 13, 1999 to the President of the Senate and the Speaker of the Assembly and was referred to the Senate Committee on Human Services & Aging on August 17, 1999 and to the Assembly Committee on Health on August 19, 1999. This rule-making order of the Medical Examining Board amends ch. Med 8 as required by 1997 Wisconsin Act 67.

V. 30-DAY NOTICE:

A 30-day notice was published in the July 1, 1999 Wisconsin Administrative Register. There were no petitions filed.

VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:

Comment 2.b. Section Med 19.08 (2) (a) was inadvertently removed from the rules.

All the recommendations suggested in the Clearinghouse Report were accepted in whole.

VII. FINAL REGULATORY FLEXIBILITY ANALYSIS:

The proposed rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

STATE OF WISCONSIN
MEDICAL EXAMINING BOARD

IN THE MATTER OF RULE-MAKING : PROPOSED ORDER OF THE
PROCEEDINGS BEFORE THE : MEDICAL EXAMINING BOARD
MEDICAL EXAMINING BOARD : ADOPTING RULES
: (CLEARINGHOUSE RULE 99-098)

PROPOSED ORDER

An order of the Medical Examining Board to *repeal* chapter Med 6, Med 10.02 (2) (v) and (y), 13.03 (1) (c) and 13.05 (1m), to *amend* Med 10.02 (2) (za), ch. Med 13 (title), 13.01, 13.02, 13.05 (2), 13.06, 17.02 (2), 21.01, 21.02 (2) and 21.03 (1) and (2) (intro.), relating to the repeal of rules relating to the practice of podiatry.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: ss. 15.08 (5) (b), 227.11 (2) and 448.40, Stats.

Statutes interpreted: ss. 448.03 (3) (c), 448.03(4) (title), 448.04 (1) (d), 448.05 (3) and 448.10 (2), Stats.

In this rule-making order the Medical Examining Board is repealing rules relating to podiatrists as a result of 1997 Wisconsin Act 175, which created the Podiatrists Affiliated Credentialing Board. Therefore, ch. Med 6 and ss. Med 10.02 (2) (v) and (y), 13.03 (1) (c) and 13.05 (1m) are repealed because they relate solely to podiatrists. References to podiatrists in ss. Med 10.02 (2) (v) and (y), Med 13.03 (1) (c) and Med 13.05 (1m) are also repealed. Sections Med 10.02 (2) (za), Chapter Med 13 (title), Med 13.01, 13.02, 13.05 (2), 13.06, 17.02 (2), 21.01, 21.02 (2) and 21.03 (1) and (2) (intro.) are amended to remove references to podiatrists.

Clearinghouse Rule 99-038, which created the Podiatrists Affiliated Credentialing Board, was submitted on August 13, 1999 to the President of the Senate and the Speaker of the Assembly and was referred to the Senate Committee on Human Services & Aging on August 17, 1999 and to the Assembly Committee on Health on August 19, 1999.

TEXT OF RULE

SECTION 1. Chapter Med 6 is repealed.

SECTION 2. Med 10.02 (2) (v) and (y) are repealed.

SECTION 3. Med 10.02 (2) (za) is amended to read:

Med 10.02 (2) (za) Failure by a physician, ~~podiatrist~~ or physician assistant to maintain patient health care records consistent with the requirements of ch. Med 21.

SECTION 4. Chapter Med 13 (title) is amended to read:

CONTINUING MEDICAL EDUCATION
FOR PHYSICIANS ~~AND PODIATRISTS~~

SECTION 5. Med 13.01 is amended to read:

Med 13.01 Authority and purpose. The rules in this chapter are adopted by the medical examining board pursuant to the authority delegated by ss. 15.08 (5) (b), 227.11 (2), and 448.13, Stats., and govern the biennial training requirements for physicians ~~and podiatrists~~ as provided under s. 448.13, Stats.

SECTION 6. Med 13.02 is amended to read:

Med 13.02 (1) Each physician ~~or podiatrist~~ required to complete the biennial training requirements provided under s. 448.13, Stats., shall, in each second year at the time of making application for a certificate of registration as required under s. 448.07, Stats., sign a statement on the application for registration certifying that the physician ~~or podiatrist~~ has completed at least 30 hours of acceptable continuing medical educational programs within the 2 calendar years immediately preceding the calendar year for which application for registration is made. ~~The 30 hours of continuing medical education for podiatrists first applies to applications that are submitted to the department to renew a license to practice podiatry that expires on November 1, 1997.~~

(2) A physician ~~or podiatrist~~ may apply to the board for waiver of the requirements of this chapter on grounds of prolonged illness or disability or other similar circumstances, and each ~~such~~ case will be considered individually on its merits by the board.

SECTION 7. Med 13.03 (1) (c) is repealed.

SECTION 8. Med 13.05 (1m) is repealed.

SECTION 9. Med 13.05 (2) is amended to read:

Med 13.05 (2) RETENTION REQUIREMENT. Evidence of compliance shall be retained by each physician ~~or podiatrist~~ through the biennium for which 30 hours of credit are required for registration.

SECTION 10. Med 13.06 is amended to read:

Med 13.06 Audit. The board may require any physician ~~or podiatrist~~ to submit his or her evidence of compliance to the board during the biennium for which 30 hours of credit are required for registration to audit compliance.

SECTION 11. Med 17.02 (2) is amended to read:

Med 17.02 (2) "Practitioner" means a person holding a license to practice medicine and surgery ~~or to practice podiatry~~.

SECTION 12. Med 21.01 is amended to read:

Med 21.01 Authority and purpose. The rules in this chapter are adopted by the board under the authority of ss. 15.08 (5) (b), 227.11 (2) and 448.40 (1), Stats., to govern the practice of physicians, ~~podiatrists~~ and physician assistants in the preparation and retention of patient health care records.

SECTION 13. Med 21.02 (2) is amended to read:

Med 21.02 (2) "Patient" means a person who receives health care services from a physician, ~~podiatrist~~ or physician assistant.

SECTION 14. Med 21.03 (1) and (2) (intro.) are amended to read:

Med 21.03 (1) A physician, ~~podiatrist~~ or physician assistant shall maintain patient health care records on every patient administered to for a period of not less than 5 years after the date of the last entry, or for such longer period as may be otherwise required by law.

(2) (intro.) A patient health care record prepared by a physician, ~~podiatrist~~ or physician assistant shall contain the following clinical health care information which applies to the patient's medical condition:

(END OF TEXT OF RULE)

The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register, pursuant to s. 227.22 (2) (intro.), Stats.

Dated _____

Agency _____

Chairperson
Medical Examining Board

FISCAL ESTIMATE

1. The anticipated fiscal effect on the fiscal liability and revenues of any local unit of government of the proposed rule is: \$0.00.
2. The projected anticipated state fiscal effect during the current biennium of the proposed rule is: \$0.00.
3. The projected net annualized fiscal impact on state funds of the proposed rule is: \$0.00.

FINAL REGULATORY FLEXIBILITY ANALYSIS

These rules will have no significant economic impact on small businesses, as defined in s. 227.114 (1) (a), Stats.

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8/25/99